



HARMONIZED SYSTEM
COMMITTEE

-
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CLASSIFICATION OF LUMBAR SUPPORT BELTS

(Agenda Item IX.20)

I. BACKGROUND

1. In June 1999, the Secretariat received a request from the Customs Administration of Morocco concerning the classification in the Harmonized System of lumbar support belts. The request essentially concerned the choice of subheading within heading 90.21 and drew attention to a possible misalignment between the English and French versions of the one-dash subheading 9021.1.
2. In its reply, the Secretariat suggested that Morocco should submit this question to the Harmonized System Committee with a view to explaining the difficulties involved in classifying such belts and to proposing a possible amendment to the legal texts.

II. DESCRIPTION

"Thuan *Lombacross* ref. 830" reinforced lumbar support belt, with posture correction, of elastic woven fabric (43 % polyamide, 25 % lapped elastane, 16 % cotton, 16 % polyester) with a crosswise structure ensuring stability of the belt (prevents it from creasing) and "velcro" fastener. (At the rear, width about 27 cm) are three bands of woven fabric (crossed, by analogy with muscular function) and rigid anatomical boning consisting of four rigid bands perpendicular to the length of the belt (posture correction). The belt is available in six different sizes, according to the patient's waist measurements. It is described as being used for :

- prevention and treatment of acute or chronic lumbago and sciatica
- occupational traumatism
- back pain due to vertebral arthrosis
- support of the abdominal wall in the case of hernia
- post-operative support

File No. 2792

3. A sample belt and trade literature will be available to delegates in the meeting room.

III. CLASSIFICATION

At 4-digit heading level

4. The lumbar support belt at issue is classifiable either in heading 90.21 as a medical or surgical belt (orthopaedic appliance) or in Section XI (heading 62.12) as an ordinary support belt of textile material.
5. Note 1 (b) to Chapter 90 excludes from heading 90.21 (referring them to Section XI) supporting belts whose intended effect on the organ to be supported or held derives solely from their elasticity.
6. Although their elasticity is the essential factor contributing to the belts' supporting or holding function, the Secretariat is of the view that the above-mentioned Note 1 (b) to Chapter 90 does not apply in the present case. Thus, particularly given the presence of rigid bands in the rear of the belt to ensure correct posture by immobilizing parts of the skeleton in a specific position, it is fair to say that the intended effect does not derive solely from the article's elasticity.
7. Furthermore, orthopaedic appliances are described in the first paragraph of the Explanatory Note to heading 90.21 (page 1620) as being appliances for :
- preventing or correcting bodily deformities; or
 - supporting or holding organs following an illness or operation.
8. The list of these appliances mentions medical or surgical belts specially designed for a particular orthopaedic purpose. For example, such belts may have reinforced parts, rigid pieces of fabric or bands of various widths (see Explanatory Note to heading 90.21, Part I, Item (11) (c), page 1621).
9. Given the description in the box above, the Secretariat is of the view that the "Lombacross" belts have both in use and design the characteristics of surgical belts and would therefore be classifiable in heading 90.21 by application of General Interpretative Rule 1 (text of heading 90.21).
10. It should be noted that the Secretariat had recently responded to another classification query about lumbar support belts of special design (with reinforcing bands of plastics in some and magnets in others) but of general and ordinary use (the first being designed to prevent lumbar neuralgia caused by incorrect sitting posture, or for health care of lower back for middle-aged persons, recuperation after an operation, and relaxation after exercise; the support belts incorporating magnets, are intended to reduce muscular aches and pains, relieve stiffness, lumbago, fatigue and insomnia and to shape the waist line).
11. In this case the Secretariat did not feel that the belts were designed for a particular orthopaedic purpose within the meaning of the first paragraph of the Explanatory Note to heading 90.21 and hence suggested classification of these articles in heading 62.12 notwithstanding their special design. The Secretariat recalls that the provisions of this first paragraph are to be incorporated in a Legal Note (new Note 6 to Chapter 90) in the

2002 version of the HS, so they seem to carry most weight for determining the classification of this type of article.

At subheading level

12. Referring to the French version of the Harmonized System, the Moroccan Administration proposes classification of these belts in subheading 9021.90. In effect, the one-dash subheading No. 9021.1 only mentions orthopaedic "appareils" and is hence more restrictive than the text of heading 90.21 which covers orthopaedic "articles et appareils". Since belts are obviously not apparatus, subheading 9021.19 would be ruled out.
13. This interpretation seems to be correct on the basis of the French text, but is not possible in the English version, which uses one and the same expression "orthopaedic appliances" in both heading and subheading texts. This might lead to a different classification (subheading 9021.19 or 9021.90) according to which version is used. The same anomaly occurs for fracture appliances.
14. After looking at the history of the Structured Nomenclature of this heading the Secretariat has not been able to determine whether the intention was to limit the scope of subheading 9021.1 to "appareils", excluding articles. Given the English version, the Secretariat feels that this was probably not the intention, particularly since such an interpretation would raise the question of the scope of the French terms "articles" and "appareils" and of the dividing line between the two subheadings concerned (for example, according to the text of subheading 9021.1, artificial joints are to be regarded as "appareils").
15. If the Committee decides to classify these belts in subheading 9021.19, the Secretariat feels that the Review Sub-Committee should be invited to examine the possible misalignment between the two versions during the next review cycle. The amendment could be effected, say, by replacing the expression "autres appareils" by "autres articles et appareils" in the French version of subheading 9021.1, as is already the case in subheadings 9021.2 and 9021.30.

IV. CONCLUSION

16. The Committee is invited to :
 - Decide on the classification of the "Thuan *Lombacross* Ref. 830"lumbar support belt;
 - Indicate whether there is misalignment between the two versions of the text of subheading 9021.1 and, if so, whether to submit this question to the Review Sub-Committee.
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